

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. 1:17-CV-00009-RJC**

JAY W. BRUCE,

Plaintiff,

v.

NANCY A. BERRYHILL,

Acting Commissioner of Social Security,

Defendant.

ORDER

THIS MATTER comes before the Court on Plaintiff's Motion to Dismiss, (Doc. No. 9), where he moves this Court to dismiss his civil action, with prejudice, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. Plaintiff has voluntarily concluded that "it will be more appropriate for him to pursue a new claim for benefits, which will be better documented with respect to non-exertional impairments." (Doc. No. 9 at 1). Plaintiff has informed Defendant, who consents to the filing of the Motion to Dismiss. (*Id.* at 2). Voluntary dismissal carries with it the assumption of dismissal without prejudice. FED. R. CIV. P. 41(a)(2). However, Plaintiff has specified that this dismissal shall be with prejudice. (Doc. No. 9 at 1). Therefore, pursuant to Rule 41(a)(2), the Court **DISMISSES** Plaintiff's action **WITH PREJUDICE**.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's Motion to Dismiss with Prejudice, (Doc. No. 9), is **GRANTED**;
2. The Clerk of Court is direct to close this case.

Signed: February 21, 2018



Robert J. Conrad, Jr.
United States District Judge

